

REMARKS

Claims 1-20 were originally presented in the present application, and claims 1-20 remain pending. Independent claims 1, 19 and 20 have been herein amended.

In the office action of March 2, 2004, the following actions were taken:

- (1) Claims 1-20 were rejected under 35 U.S.C. § 102(b) as being anticipated by Haigh et al (U.S. Patent No. 3,999,653, hereinafter “Haigh”);
- (2) Claims 1-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hacikyan (U.S. Patent No. 6,530,472, hereinafter “Hacikyan”);
- (3) Claims 1-20 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement; and
- (4) Claims 1-20 were rejected under 35 U.S.C. § 112, second paragraph, as failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Rejection Under 35 U.S.C. § 102(b)

The Examiner has rejected claims 1-20 under 35 U.S.C. 102(b) as being anticipated by Haigh. It is Applicants’ assertion that Haigh fails to teach each and every element of the claim language.

Haigh teaches a package 10 for containing a hazardous liquid disposed in a bottle 11. The package includes an inner casing (identified by the Examiner as glass bottle body 12) and an outer casing (identified by the Examiner as jacket 17 and/or jacket 26 and/or packaging 72, 73, 75 and 76). The Examiner stated that, in the embodiment of FIG. 1, the “inner casing is considered to be less durable than the outer casing since the inner casing broke when impacted by the hammer while the outer casing was intact.”

The Haigh invention is drawn toward a package 10 that includes a first jacket 16 that is surrounded by a second jacket 17. A hazardous liquid container or bottle 11 can be disposed within the first jacket to protect the container from impact. As discussed in Col. 3, lines 57-58, the glass container is generally placed inside the first jacket and the jacket is rolled about the glass container. Thus, the glass container, which contains the liquid, is clearly independent of the package 10 in which the glass container is placed.

Conversely, the present invention as claimed in claims 1, 19 and 20 requires “a durable outer casing” with an “inner casing coupled [thereto] to form an integrated device.” The inner casing is both “unreactive to the material” being contained and is configured to be a barrier in direct contact with the material. Claims 1, 19 and 20 require that the inner and outer casings be coupled so as to form an integrated device that can receive the material, e.g., a liquid or liquid dispersion, for containment. The container of the present invention can thus be used to contain a material and protect against adverse exposure to the material without requiring additional materials or packaging.

In contrast, the container 11 of the Haigh device, which has an inner layer that is impermeable to the fluid, requires the additional wrapping of inner 16 and outer 17 jackets to protect the container against adverse exposure. Thus, the Haigh device does not include an inner casing coupled to an outer casing with the inner casing being a barrier that is unreactive with the material being contained. Accordingly, Haigh does not teach or suggest each element of the pending claims.

For these reasons, the Examiner is respectfully requested to withdraw the rejections under this section and allow the claims accordingly.

Rejection Under 35 U.S.C. § 103(a)

The Examiner has rejected claims 1-20 under 35 U.S.C. 103(a) as being unpatentable over Hacikyan. It is Applicants' assertion that it would not be obvious in light of Hacikyan to provide a container in which inner and outer casings are disposed about a preventative layer, with the inner casing being unreactive to a material to be contained, and with the inner and outer casings being coupled to each other to provide an integrated device. Furthermore, it is to be noted that the definition of "inner casing" found on page 5, lines 12-15 of the Applicants' specification clearly defines inner casing to be "a barrier," and thus, this language has also been added to the claims. A barrier is not a structure that would allow the material to freely pass. In accordance with this aspect, the inner casing contains the material, and only upon failure of the inner casing are the preventative layer and outer casings contacted or utilized.

Similar to Haigh, Hacikyan teaches a safety container for shipping or storing vials containing hazardous materials. A vial 108 contains the material and is stored within an outer container 100 that includes a fluid soluble liner 112 that covers a lining 100 protected by an outer, impermeable wall 102. The outer container 100 is adapted to ship or store the vial 8, as discussed in Col. 3, lines 28-29. Thus, as in Haigh, the Hacikyan device is a protective vessel adapted to receive a separate container of hazardous material, not a single, integrated container for receiving the material.

In contrast, the container claimed in the present application requires at least three layers: an outer casing; an inner casing coupled to the outer casing; and a preventative agent disposed between the outer and inner casing. The outer casing and the inner casing are coupled to each other with the preventative agent disposed therebetween and the inner casing acts as a barrier that is unreactive to a material being contained. Thus, the present container provides an integrated storage container that protects against adverse exposure to the material

stored therein. Though not prohibited, the present invention, as claimed, requires no additional jacketing or outer container to protect the contained material.

In addition to the above arguments, the Haigh and Hacikyan references each teach away from the invention as claimed in that each of these references teach adapting protective vessels to receive and store a container to prevent adverse exposure to material contained in the container. The material containers taught by Haigh and Hacikyan are known containers, such as a glass or plastic vials, which are disposed within an outer protective jacket. In contrast, the present invention as claimed advantageously provides an integrated container in which a material can be contained and protected from adverse exposure. The present invention as claimed does not require a separate protective vessel, as the container itself provides the protection from adverse exposure.

Further, if the protective members of the Haigh and Hacikyan devices were used without a glass or plastic container, as the Examiner has proposed, the devices would fail, as the inner surfaces of the Haigh and Hacikyan devices are intentionally permeable to fluid, to allow spilled material to flow into a containment layer. Thus, the inner surfaces are not considered to be a “barrier” in the traditional sense. In contrast, material to be contained by the present invention, e.g., a liquid or liquid dispersion, can be poured directly into the present container and not permeate the inner casing to react with the preventative layer; nor will the material react with the inner casing itself, as the inner casing is unreactive to the material.

In the Office Action, the Examiner asked that Applicant consider that all of the prior art of record teaches packaging having multiple “layers.” The Examiner indicated, for example, that he need not rely on the on vial 108 of Hacikyan to meet the requirement of an inner casing. For example, the Examiner indicated that the inner casing could be liner 112,

the outer casing could be outer wall 102, and the preventative agent could be lining 110 that is impregnated with an absorbent polymer.

In response to these considerations, Applicant respectfully submits that relying on any combination of the layers in either Haigh or Hacikyan does not result in structure anticipating the present claims. For example, if the Hacikyan liner 112 and outer casing 102 were compared to the present claims, the Hacikyan reference does not anticipate or render obvious the present claims, as the resulting structure does not include an inner casing (defined to be a barrier) that is unreactive to the material. Conversely, Hacikyan's liner 112 is permeable and is intended expose the material to a second containment layer. Thus, any "inner layer" chosen from the structure of the Hacikyan jackets 16, 17, is permeable to the fluid being contained, and in combination with another layer that would necessarily be contacted due to the permeability of the inner layer, is designed to cause a containment reaction of some type. In other words, either layer cannot be viewed in a vacuum, as exposure to the permeable layer necessitates exposure to the containment layer. Similarly, if it were argued that vial 108 constituted the inner casing of the present claims, it is clear that the glass vial is not coupled to the outer jacket 16, 17 and does not anticipate or render obvious the present claims. Reconsideration on each of these grounds is respectfully requested.

Rejection Under 35 U.S.C. § 112

Claims 1-20 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner stated that the claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention, and therefore constitutes new matter.

Independent claims 1, 19 and 20 have been amended to include the limitation of:

“a protective container for containing a material . . . , comprising:

- a) a durable outer casing;
- b) an inner casing, coupled to the outer casing to form an integrated device, the inner casing being:
 - i) less durable than the outer casing;
 - ii) unreactive to the material; and
 - iii) configured to be a barrier in direct contact with the material; and
- c) a layer of a preventative agent disposed between the inner and outer casings which is sufficient to disable at least a portion of the material upon failure of the inner casing.” (Emphasis added).

Support for the limitation directed to “the inner casing being coupled to the outer casing to form an integrated device” can be found on lines 17-19 of page 8 of the specification as filed. In the embodiment discussed on page 8, the “outer casing 15 and the inner casing 25 are coupled together” to form an “integrated device.” Thus, Applicant submits that this limitation is clearly not new matter.

Support for the limitation directed to “the inner casing being unreactive to the material” being contained can be found on lines 18-21 of page 7 of the specification as filed. In the embodiment discussed, the inner casing is “made of a material which is unreactive with the container’s contents, and which does not become degraded or weakened by contact therewith.” Thus, Applicant submits that this limitation is clearly not new matter.

Claims 1-20 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner indicated that it is not clear what structure is encompassed by the requirement that the inner casing be “integrally coupled” to the outer casing. Claims 1, 19 and 20 have been amended to include the limitation of an inner and outer casing coupled together to form an “integrated device.” Applicant submits that those skilled in the art understand the term “integrated” to refer to two components which are formed as a coupled unit. The Shorter Oxford English Dictionary, 5th Edition, defines the term integrated as “combined into a whole; united; undivided.” Thus, the

inner and outer casings of the present invention are not separate or, generally, separable. Rather, the inner and outer casings are undividedly coupled to one another. In contrast, the container of both the Hacikyan and Haigh references is clearly not integrated with the unit as a whole, as they are each designed to be separated easily from the unit as a whole.

In view of the foregoing, Applicants believe that claims 1-20 present allowable subject matter and allowance is respectfully requested. If any impediment to the allowance of these claims remains after consideration of the above remarks, and such impediment could be removed during a telephone interview, the Examiner is invited to telephone David W. Collins at (520) 399-3203, so that such issues may be resolved as expeditiously as possible.

Please charge any additional fees except for Issue Fee or credit any overpayment to Deposit Account No. 08-2025.

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Respectfully submitted,

M. Wayne Western
M. Wayne Western
Attorney for Applicant
Registration No. 22,788

Gary P. Oakeson
Gary P. Oakeson
Attorney for Applicant
Registration No. 44,266

Of:
THORPE NORTH & WESTERN, LLP
8180 South 700 East, Suite 200
Sandy, Utah 84070
(801) 566-6633

On Behalf Of:
HEWLETT-PACKARD COMPANY
1000 NE Circle Blvd., m/s 422B
Corvallis, OR 97330-4239
(541) 715-0159